

**FILED**

**NOV 23 2015**

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

MICHAEL P. DUNSMORE,

Plaintiff,

vs.

ELEVENTH DISTRICT COURT,  
ROBERT ALLISON, LEROY  
KIRKEGARD, et al.,

Defendant.

CV 15-000141-M-DLC-JCL

FINDINGS AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE

This matter was closed November 17, 2015 because Plaintiff Michael Dunsmore had submitted neither the filing fee nor a motion to proceed in forma pauperis after being given an opportunity to do so. (Doc. 3.) On November 18, 2015, Dunsmore filed a Motion to Amend, Remand, and Stay (Doc. 4) and a Motion to Waive filing fees in forma pauperis (Doc. 5.)

As set forth in the Court's prior Order, Dunsmore is subject to the three strikes provision of 28 U.S.C. § 1915(g). He has filed three civil actions which have been dismissed as frivolous or for failure to state a claim. *See Dunsmore v. State*, CV-10-00031-H-DWM (D. Mont. Judgment of dismissal filed August 10, 2010); *Dunsmore v. State*, CV-10-37-H-DWM (D. Mont. Judgment of dismissal filed September 8, 2010); and *Dunsmore v. Kirkegard*, CV-14-00072-H- DLC (D.

Mont. Judgment of dismissal filed May 1, 2015). As such, Dunsmore cannot proceed in forma pauperis in the instant case unless he can show that he qualifies for the “imminent danger of serious physical injury” exception of 28 U.S.C. § 1915(g). Even when construed liberally in Dunsmore’s favor, the allegations in the Complaint do not support a finding that he is in “imminent danger of serious physical injury.” Accordingly, the Court will recommend that the motion to proceed in forma pauperis and motion to amend be denied.

Dunsmore is not entitled to a fourteen-day period to object. *See Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam). No motion for reconsideration will be entertained.

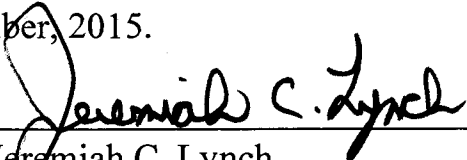
Based upon the foregoing, the Court issues the following:

### RECOMMENDATIONS

1. Dunsmore’s Motion to Proceed in Forma Pauperis (Doc. 5) should be denied and all other motions terminated.

2. The Clerk of Court should be directed enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 23rd day of November, 2015.

  
Jeremiah C. Lynch  
United States Magistrate Judge